

**STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
DEPARTMENT OF HEALTH
JOINT BULLETIN #93-8**

Issued this 17th day of
September, 1993

TO: ALL HEALTH CARRIERS LICENSED TO DO BUSINESS IN MINNESOTA

RE: Clarification of when individual policies may be legally sold to employees and dependents of employees of small groups.

The following excerpts from the 1992 MinnesotaCare Act apply to this bulletin.

62L.12 PROHIBITED PRACTICES.

Subdivision 1. Prohibition on issuance of individual policies. A health carrier operating in the small employer market shall not knowingly offer, issue, or renew an individual policy, subscriber contract, or certificate to an eligible employee or dependent of a small employer that meets the minimum participation requirements defined in section 62L.03, subdivision 3, except as authorized under subdivision 2.

Subd. 2. Exceptions. (a) A health carrier may sell, issue, or renew individual conversion policies to eligible employees and dependents otherwise eligible for conversion coverage under section 62D.104 as a result of leaving a health maintenance organization's service area.

(b) A health carrier may sell, issue, or renew individual conversion policies to eligible employees and dependents otherwise eligible for conversion coverage as a result of the expiration of any continuation of group coverage required under sections 62A.146, 62A.17, 62A.21, 62C.142, 62D.101, and 62D.105.

(c) A health carrier may sell, issue, or renew conversion policies under section 62E.16 to eligible employees and dependents.

(d) A health carrier may sell, issue, or renew individual continuation policies to eligible employees and dependents as required.

(e) A health carrier may sell, issue, or renew individual coverage if the coverage is appropriate due to an unexpired preexisting condition limitation or exclusion applicable to the person under the employer's group coverage or due to the person's need for health care services not covered under the employer's group policy.

(f) A health carrier may sell, issue, or renew an individual policy, with the prior consent of the commissioner, if the individual has elected to buy the individual coverage not as part of a general plan to substitute individual coverage for group coverage nor as a result of any violation of subdivision 3 or 4.

(g) Nothing in this subdivision relieves a health carrier of any obligation to provide continuation or conversion coverage otherwise required under Federal or state law.

Subd. 3. Agent's licensure. An agent licensed under chapter 60A or section 62C.17 who knowingly and willfully breaks apart a small group for the purpose of selling individual policies to eligible employees and dependents of a small employer that meets the participation requirements of section 62L.03, subdivision 3, is guilty of an unfair trade practice and subject to the revocation or suspension of license under section 60A.17, subdivision 6c, or 62C.17. The action must be by order and subject to the notice, hearing, and appeal procedures specified in section 60A.17, subdivision 6d. The action of the commissioner is subject to judicial review as provided under chapter 14.

Subd. 4. Employer prohibition. A small employer shall not encourage or direct an employee or applicant to:

(1) refrain from filing an application for health coverage when other similarly situated employees may file an application for health coverage;

(2) file an application for health coverage during initial eligibility for coverage, the acceptance of which is contingent on health status, when other similarly situated employees may apply for health coverage, the acceptance of which is not contingent on health status;

(3) seek coverage from another carrier, including, but not limited to, MCHA; or

(4) cause coverage to be issued on different terms because of the health status or claims experience of that person or the person's dependents.

Sec. 10.[62A.303] [PROHIBITION; SEVERING OF GROUPS.]

Section 62L.12, subdivisions 1, 2, 3, and 4, apply to all employer group health plans as defined in section 62A.011, regardless of the size of the group.

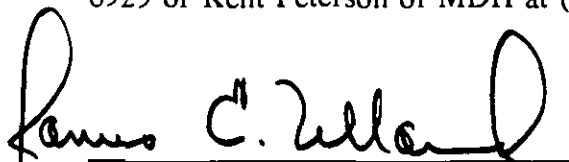
The intent of these provisions is to prohibit the practice of carving up groups, especially small employer groups - either to improve the status of the group or to carve out a healthy employee or dependent from a less healthy group. However, the ultimate intent of Minnesota's health care reform efforts is to increase access to quality health care. Nothing in this law prohibits an employee from purchasing individual coverage.


The Departments recognize that there may be instances when the sale of an individual policy, particularly to dependents, is in the best interest of the employer. In these instances, selling an individual policy will be considered to be in compliance with the law. However, the

Departments have concluded that Insurance/HMO agents and employers will be responsible for complying with the law and its intent.

As a general rule, the employer may not be used as either the financing nor the payment mechanism for individual policies. The employer cannot be the conduit for the sale of or payment of individual policies. In addition, minimum participation and contribution requirements apply to employees only.

This bulletin does not apply to Medicare Supplemental policies or to MCHA enrollees not wishing to return to the small groups. Please contact John Gross of Commerce at (612) 296-6929 or Kent Peterson of MDH at (612) 282-5616 if you have any questions.


JAMES E. ULLAND
Commissioner of Commerce


MARY JO O'BRIEN
Commissioner of Health